



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[EPA-HQ-OPPT-2010-0173; FRL-9373-7]

RIN 2070-AJ56

Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Request for Information and Advance Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for information and advance notice of public meeting.

SUMMARY: In 2010, EPA issued an advance notice of proposed rulemaking (2010 ANPRM) concerning renovation, repair, and painting activities on and in public and commercial buildings. EPA is in the process of determining whether these activities create lead-based paint hazards, and, for those that do, developing certification, training, and work practice requirements as directed by the Toxic Substances Control Act (TSCA).

This document opens a comment period to allow for additional data and other information to be submitted by the public and interested stakeholders. This document also provides advance notice of EPA's plan to hold a public meeting on June 26, 2013.

DATES: Comments must be received on or before *[insert date 90 days after date of publication in the Federal Register]*.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2010-0173, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you

consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery*: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.htm>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:*

Hans Scheifele, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-3122; email address: scheifele.hans@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This document is directed to the public in general. However, you may be potentially affected by this action if you perform renovations, repairs, or painting

activities on the exterior or interior of public buildings or commercial buildings. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Other types of entities not listed may also be affected.

Potentially affected entities may include:

- Building construction (NAICS code 236), *e.g.*, commercial building construction, industrial building construction, commercial and institutional building construction, building finishing contractors, drywall and insulation contractors, painting and wall covering contractors, finish carpentry contractors, other building finishing contractors.

- Specialty trade contractors (NAICS code 238), *e.g.*, plumbing, heating, and air-conditioning contractors; painting and wall covering contractors; electrical contractors; finish carpentry contractors; drywall and insulation contractors; siding contractors; tile and terrazzo contractors; glass and glazing contractors.

- Real estate (NAICS code 531), *e.g.*, lessors of non-residential buildings and dwellings, non-residential property managers.

- Other general government support (NAICS code 921), *e.g.*, general services departments, government, public property management services, government.

If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- i. Identify this document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions. Follow the detailed instructions as provided under **ADDRESSES**. Respond to specific questions posed by the Agency.
- iii. Explain why you agree or disagree; suggest alternatives.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced by the Agency and others.
- vi. Provide specific examples to illustrate your concerns and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified in this document.

II. Background

Title IV of TSCA, 15 U.S.C. 2681 *et seq.*, was enacted to assist the Federal Government in reducing lead exposures, particularly those resulting from lead-based paint. Section 402(c)(3) of TSCA specifically requires EPA to revise its Lead-based Paint Activities Regulations (Ref. 1), promulgated under TSCA section 402(a), to apply to those renovation and remodeling activities in target housing, public buildings constructed before 1978, or commercial buildings that create lead-based paint hazards. In April 2008, EPA issued the final Lead Renovation, Repair, and Painting (RRP) Rule under TSCA section 402(c)(3) (Ref. 2). The RRP Rule covers renovation, repair, and painting activities in target housing, which is most pre-1978 housing, and child-occupied facilities, defined in the rule as a subset of public and commercial buildings in which young children spend a significant amount of time.

Shortly after the RRP Rule was published, several lawsuits were filed challenging the rule, asserting, among other things, that EPA violated TSCA section 402(c)(3) by failing to address renovation activities in public and commercial buildings. These lawsuits (brought by environmental and children's health advocacy groups as well as a homebuilders association) were consolidated in the Circuit Court of Appeals for the District of Columbia Circuit. EPA engaged in collective settlement negotiations with all the parties and on August 24, 2009, EPA entered into an agreement with environmental and children's health advocacy groups in settlement of their lawsuits (Ref. 3). Shortly thereafter, the homebuilders association voluntarily dismissed its challenge to the rule. As

part of this settlement agreement, EPA agreed to commence rulemaking to address renovations in public and commercial buildings, other than child-occupied facilities, to the extent such renovations create lead-based paint hazards. As an initial step, EPA issued an ANPRM in the **Federal Register** on renovations in public and commercial buildings on May 6, 2010 (Ref. 4).

The settlement agreement has been amended and modified several times primarily to extend deadlines, with the most recent amendment having been entered into by the parties on September 7, 2012. Under the terms of the amended settlement agreement, the date by which EPA has agreed to either sign a proposed rule covering renovation, repair, and painting activities in public and commercial buildings, or determine that these activities do not create lead-based paint hazards, is July 1, 2015. If EPA publishes a proposed rule in the **Federal Register**, EPA agrees to take final action on or before the date 18 months after the proposed rule has published.

In addition, EPA agreed to hold a public meeting on or before July 31, 2013, and offer an opportunity for stakeholders and other interested members of the public to provide data and other information that EPA may use in making its regulatory determinations. With this document, EPA is providing advance notice that it plans to hold the public meeting on June 26, 2013, and will provide more information about the public meeting in a subsequent document it intends to publish in the **Federal Register** in the spring of 2013.

EPA also agreed to offer an opportunity for stakeholders and other interested members of the public to provide data and other information that EPA may use in making its regulatory determinations. This document, therefore, opens a comment period to allow

the public to submit additional information and data pertaining to renovation, repair, and painting activities in and on public or commercial buildings. EPA plans to issue a discussion guide no later than 2 weeks before the public meeting. EPA expects the discussion guide to describe the information received during this comment period. Of particular interest to EPA for developing a proposed rule is information concerning:

1. The manufacture, sale, and uses of lead-based paint after 1978.
2. The use of lead-based paint in and on public and commercial buildings.
3. The frequency and extent of renovations on public and commercial buildings.
4. Work practices used in renovation of public and commercial buildings.
5. Dust generation and transportation from exterior and interior renovations of public and commercial buildings.

These topical descriptions offer only a short characterization of the information that EPA is interested in. The 2010 ANPRM contains a comprehensive history of this rulemaking and the lead program in general, a review of some of the relevant information EPA has already gathered and reviewed, and more detail on the information sought for the public meeting (Ref. 4).

EPA is seeking information from all sources and regarding all types of potentially affected businesses and other stakeholders, including small businesses. Information regarding work practices typically used by small businesses, as well as information on costs and other potential regulatory impacts on small businesses, particularly those that would uniquely affect small businesses, would be useful to EPA in developing any proposed rule for renovation, repair, and painting activities in and on public or commercial buildings.

III. References

As indicated under **ADDRESSES**, a docket has been established for this document under docket ID number EPA-HQ-OPPT-2010-0173. The following is a list of the documents that are specifically referenced in this document. The docket includes these documents and other information.

1. EPA. Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Final Rule. **Federal Register** (61 FR 45778, August 29, 1996) (FRL-5389-9).
2. EPA. Lead; Renovation, Repair, and Painting Program; Final Rule. **Federal Register** (73 FR 21692, April 22, 2008) (FRL-8355-7).
3. EPA. Sierra Club, etc. Settlement, as amended and modified (2009, 2011, and 2012).
4. EPA. Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Advanced Notice of Proposed Rulemaking. **Federal Register** (75 FR 24848, May 6, 2010) (FRL-8823-6).

List of Subjects in 40 CFR Part 745

Environmental protection, Buildings and facilities, Business and industry, Lead-based paint, Hazardous substances, Public and commercial buildings, Occupational safety and health, Renovations, Repair, and Painting Program (RRP), Safety.

Dated: December 20, 2012.

James Jones, Acting

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2012-31532 Filed 12/28/2012 at 8:45 am; Publication Date: 12/31/2012]